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September 8, 2009

Clerk of the Court  
Washington Supreme Court  
Temple of Justice  
P.O. Box 40929  
Olympia, WA 98504-0929  
*Filed via email attachment*

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SUPREME COURT  
STATE OF WASHINGTON  
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BY RONALD R. CARPENTER  
CLERK

**RE: In re Personal Restraint Petition of Steven J. Clark ~ No. 81522-4  
Statement of Additional Authorities**

Clerk of the Court:

Pursuant to RAP 10.8, Appellant submits the following additional authority in support of his PRP:

*In re Pers. Restraint of Bradley*, 165 Wn.2d 934, 938-39, 944, 205 P.3d 123 (2009) (“The State concedes that Bradley’s offender score for his simple possession charge was miscalculated. The State also appears to concede that the miscalculation resulted in a facial invalidity on Bradley’s judgment and sentence, allowing him to avoid the one-year time bar to filing a personal restraint petition.” “Bradley was misinformed about a direct consequence of his simple possession plea. Therefore, his plea was involuntary and he is entitled to withdraw it.”);

*State v. Weyrich*, 163 Wn.2d 554, 557, 182 P.3d 965 (2008) (“Because Weyrich was misinformed that the statutory maximum sentence for the thefts was 5 years [rather than 10], he should have been allowed to withdraw his pleas.”);

*In re Pers. Restraint of Scott*, 149 Wn. App. 213, 202 P.3d 985 (2009) (judgment was invalid on its face when it listed a firearm enhancement, rather than the deadly weapon enhancement returned by jury);

*State v. Booker*, 143 Wn. App. 138, 176 P.3d 620 (2008) (court rejects attack on prior out-of-state conviction in current sentencing proceeding where record was ambiguous regarding whether defendant was represented by counsel and where

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defendant did not submit declaration stating that he was unrepresented, but notes where record supports conclusion that defendant was unrepresented, a waiver of counsel cannot be presumed from silent record);

*State v. Thompson*, 143 Wn. App. 861, 867-88, 181 P.3d 858 (2008) (“The guilty plea form notes an incorrect 10-year maximum sentence for each crime, while the corresponding judgment and sentence lists the correct 5-year maximum sentence. From review of the face of these documents alone, we do not know whether Thompson was informed of the correct maximum possible sentence on each crime. We concede that given the discrepancy between the forms, Thompson's convictions may be unconstitutional. Like *Ammons* though, because a determination cannot be made from review of the forms alone, Thompson's claim fails. With the burden of proof on Thompson to establish the unconstitutionality of the pleas, his recourse is to ‘pursue the usual channels provided for post-conviction relief, and, if successful, request resentencing.’”).

Sincerely,

/s/ Jeff Ellis  
Jeff Ellis  
*Attorney for Mr. Clark*

cc: DPA Ann Summers

## OFFICE RECEPTIONIST, CLERK

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**From:** Jeff Ellis [jeffreywinellis@gmail.com]  
**Sent:** Tuesday, September 08, 2009 1:17 PM  
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**Subject:** Re: PRP of Clark, No 81522-4  
**Attachments:** ClarkStateAddAuthor.pdf

Attached please find a *Statement of Additional Authority* to be filed in the above entitled case. I have served opposing counsel by this email.

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